Supreme Court, U.S.
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No. 97-1714

In The

Supreme Court of the United States

October Term, 1997

THEODORE P. COATES,

Petitioner,

vs.

KENNETH M. SEATON,

Respondent.

On Petition for Writ of Certiorari to the Court of Appeals of the State of Colorado

REPLY BRIEF FOR PETITIONER

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PETITIONER'S REPLY BRIEF

Respondent has raised numerous points in its brief in opposition. Each and every one of such points, unfortunately, has nothing to do with the basis for the petition.

Briefly stated, the petition is based upon the fact that the Colorado Court of Appeals decision, if upheld, would permit Tennessee law effectively to erase 15 U.S.C. § 1692i from the books, thereby directly contravening 15 U.S.C. § 1692n, which states that any state law inconsistent with such federal statute is nullified. Petitioner contends that this decision, whether based on the Full Faith and Credit Clause or otherwise, is wrong and demanding of redress.

Respondent does not even address this relatively simple proposition. Instead, respondent sets up various straw horses and attempts to knock them down. The Court's attention is directed to the basis for the petition and the Court is asked to avoid respondent's invitation to take irrelevant sidetrips to matters not necessary to the Court's handling of such petition.

The points raised by respondent can be addressed as set forth below.

Jurisdiction

The opinion of the Colorado Court of Appeals was entered on May 15, 1997. The opinion of the Colorado Supreme Court denying certiorari was entered on January 24, 1998. The jurisdiction of the United States Supreme Court is invoked pursuant to 28 U.S.C. § 1257 (1994). Petitioner incorrectly cited 28 U.S.C. § 1254 in his petition.

28 U.S.C. § 1257(a)

Petitioner believes that the Colorado Court of Appeals decision draws into question the validity of 15 U.S.C. § 1692i and 15 U.S.C. § 1692n. This is the whole point of the petition.

Case or Controversy

Respondent's "case or controversy" argument is frivolous. All petitioner stated is that its appeal did not call into question the underlying debt, but was focused upon the federal statutes involved in this petition. For respondent to transform this harmless statement (made solely to frame the issues for consideration of this Court as narrowly as possible) into an admission by petitioner that petitioner concedes the amount being collected by respondent is irresponsible, and has nothing to do with the petition before the Court.

Application of 15 U.S.C. § 1692i

Respondent's lengthy discussion of the applicability of 15 U.S.C. § 1692i is inapposite. Instead of dealing with the Colorado Court of Appeals decision, which is the decision being challenged in the petition, respondent treats the petition like a trial court complaint and seeks a summary judgment by this Court based upon facts which are hotly in dispute.

Petitioner made offers of proof regarding all of the factual matters raised by respondent, and petitioner will at the appropriate time prove such matters in the appropriate forum. This is not such forum.

Petitioner does not seek before this Court to prove up all aspects of his case or even to argue all conceivable legal points which might be raised at some point down the line. The only thing which petitioner seeks to raise before this Court is the negative treatment given by the Colorado Court of Appeals to the federal statutes involved in this petition.

Petitioner is asking this Court to determine whether the Colorado Court of Appeals incorrectly emasculated the federal consumer protection statutes involved in this case, including its use of the Full Faith and Credit Clause of the United States Constitution to do so. The various points raised by respondent respecting the applicability of such federal statutes are at best premature.

The effect of 15 U.S.C. § 1692i

Respondent's argument as to the impact of 15 U.S.C. § 1692i is the very issue which petitioner wishes the Court to consider. Once again, respondent ignores the effect of 15 U.S.C. § 1692n, which makes it very clear that 15 U.S.C. § 1692i governs over inconsistent state law.

Conclusion

The decision by the Colorado courts to deny to Mr. Coates any protection under the federal consumer protection legislation is inconsistent with the spirit and intent of such consumer protection legislation. This petition for a writ of certiorari should be granted.

Respectfully submitted,

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